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Jusan Technologies Ltd.*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JYSAN HOLDING, LLC, a Nevada Limited
Liability Company; JUSAN
TECHNOLOGIES LTD, an England and
Wales Limited Company;

Plaintiffs,

v.

REPUBLIC OF KAZAKHSTAN, a foreign
sovereign state; THE AGENCY FOR
REGULATION AND DEVELOPMENT OF
THE FINANCIAL MARKET OF THE
REPUBLIC OF KAZAKHSTAN, a
Kazakhstan Government agency; THE ANTI-
CORRUPTION AGENCY OF THE
REPUBLIC OF KAZAKHSTAN, a
Kazakhstan Government anti-corruption
agency ; THE FINANCIAL MONITORING
AGENCY OF THE REPUBLIC OF

Case No.: 2:23-CV-00247-JAD-VCF

**MOTION FOR SERVICE OF THE
SUMMONS AND COMPLAINT ON
INDIVIDUALS IN A FOREIGN
COUNTRY PURSUANT TO
FRCP 4(F)(2)(C)(II)**

1 KAZAKHSTAN, a Kazakhstan Government
 2 agency; THE COMMITTEE FOR
 3 NATIONAL SECURITY OF
 4 KAZAKHSTAN, a Kazakhstan Government
 5 intelligence agency; MADINA
 6 ABYLKASSYMOVA, an individual;
 7 OLZHAS KIZATOV, an individual; ARMAN
 8 OMARBЕКOV, an individual; and
 9 ADILBEK DZHAKSYBEKOV, an
 10 individual,

11 Defendants.

12 Plaintiffs Jysan Holding, LLC (“Jysan Holding”) and Jusan Technologies Ltd. (“JTL”)
 13 (collectively, “Plaintiffs”), in accordance with Federal Rule of Civil Procedure
 14 (“FRCP”) 4(f)(2)(C)(ii), hereby move for an Order directing the Clerk of Court to effect
 15 service of the Complaint, respective Summons, and the Russian translations thereof, on
 16 Defendants Madina Abylkassymova, Olzhas Kizatov, and Arman Omarbekov, via tracked
 17 international mail (i.e., DHL or FedEx) with signed return receipt requested, at the addresses
 18 identified below. Plaintiffs further propose to furnish the Clerk of the Court with all necessary
 19 documents to effect service, including paper copies of the Complaint, respective Summons,
 20 and the Russian translations thereof, along with international courier envelopes and pre-
 21 addressed, pre-paid international shipment waybills.

22 **Madina Abylkassymova, Chairperson**

23 c/o The Agency for Regulation and Development of the Financial Market of the
 24 Republic of Kazakhstan
 25 21, Koktem-3
 26 Almaty, 050040
 27 Republic of Kazakhstan

28 **Olzhas Kizatov, Deputy Chairperson**

c/o The Agency for Regulation and Development of the Financial Market of the
 Republic of Kazakhstan
 21, Koktem-3
 Almaty, 050040
 Republic of Kazakhstan

Arman Omarbekov

c/o The Agency for Regulation and Development of the Financial Market of the
Republic of Kazakhstan
21, Koktem-3
Almaty, 050040
Republic of Kazakhstan

DATED this 8th day of March 2023.

HOLLAND & HART LLP

/s/ J. Stephen Peek

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiffs move for an Order directing the Clerk of Court to effect service of the Complaint, respective Summons, and the Russian translations thereof, on Defendants Madina Abylkassymova, Olzhas Kizatov, and Arman Omarbekov, pursuant to FRCP 4(f)(2)(C)(ii), which permits service on an individual in a foreign country using any tracked international mail that the Clerk addresses and sends to the individual and that requires a returned receipt. Plaintiffs request mailed service upon these Individual Defendants in the Republic of Kazakhstan (“Kazakhstan”) under FRCP 4(f)(2)(C)(ii) in order to provide them with the best and most expeditious service of the Complaint and Summons.

II. FACTS AND PROCEDURAL HISTORY

On February 16, 2023, Plaintiffs filed their Complaint in this action. *See* ECF No. 1. On February 21, 2023, Plaintiffs submitted to the Court proposed summonses to be issued to all Defendants. *See* ECF No. 4. The next day, the Clerk issued the summonses. *See* ECF No. 5.

Four of the nine Defendants in this action are individuals (the “Individual Defendants”) located in a foreign country—Kazakhstan. Plaintiffs have obtained the business addresses of three of the Individual Defendants—Madina Abylkassymova, Olzhas Kizatov, and Arman Omarbekov—each of whom is employed by the Agency for Regulation and Development of the Financial Market of the Republic of Kazakhstan. Plaintiffs are diligently working to obtain an address or alternate contact information for the remaining Individual Defendant—Adilbek Dzhaksybekov. The remaining five Defendants are considered either “[a] foreign state or its political subdivision, agency, or instrumentality” under FRCP 4(j)(1), and Plaintiffs are accordingly beginning the process of serving them pursuant to 28 U.S.C. § 1608(a) and the Convention on the Service Abroad of Judicial Documents in Civil or Commercial Matters, Nov. 15, 1965 (“Hague Service Convention”), 20 U.S.T. 361, T.I.A.S. No. 6638.

Plaintiffs are presently prepared to serve Defendants Madina Abylkassymova, Olzhas Kizatov, and Arman Omarbekov, and accordingly file the instant Motion to direct the Clerk of Court to effect service pursuant to FRCP 4(f)(2)(C)(ii).

III. LEGAL ARGUMENT

Plaintiffs seek to effectuate service on the Individual Defendants in Kazakhstan, which is a signatory to the Hague Service Convention. “[I]n cases governed by the Hague Service Convention, service by mail is permissible if two conditions are met: first, the receiving state has not objected to service by mail; and second, service by mail is authorized under otherwise-applicable law.” *Water Splash, Inc. v. Menon*, 581 U.S. 271, 284 (2017). Both conditions are met here.

First, the Hague Service Convention allows mail service under Article 10(a), stating, “[p]rovided the State of destination does not object, the present Convention shall not interfere with . . . the freedom to send judicial documents, by postal channels, directly to persons abroad” Kazakhstan has not objected to Article 10(a) of the Hague Service Convention.¹

Second, service by mail is authorized under otherwise applicable law, that is, the law of the forum in which the case is pending. Pursuant to FRCP 4(f)(2)(C)(ii), “an individual . . . may be served at a place not within any judicial district of the United States . . . if an international agreement allows but does not specify other means, by a method that is reasonably calculated to give notice . . . unless prohibited by the foreign country’s laws, by[] . . . using any form of mail that the clerk addresses and sends to the individual and that requires a signed receipt.” (emphases added). See *Brockmeyer v. May*, 383 F.3d 798, 804-05 (9th Cir. 2004) (stating that Rule 4(f)(2)(C)(ii) provides “[e]xplicit, affirmative authorization for service by international mail” and that “[t]his rule authorizes service abroad by mail for which a signed receipt is required, when such mail is addressed and mailed by the clerk of the federal district court in which the suit is filed”).

Plaintiffs accordingly may serve the Individual Defendants in Kazakhstan by mail as permitted pursuant to the Hague Service Convention and FRCP 4(f)(2)(C)(ii). This Court has

¹ Republic of Kazakhstan’s Declarations to the Hague Service Convention, *available at* <https://www.hcch.net/en/instruments/conventions/status-table/notifications/?csid=1320&disp=resdn> (last accessed March 7, 2023).

1 previously granted similar requests for service of foreign defendants via international registered
2 mail pursuant to FRCP 4(f)(2)(C)(ii). *See* Order granting re 56 Motion for Service of the
3 Amended Complaint and Summons in a Foreign Country Pursuant to FRCP 4(f)(2)(C)(ii), *U.S.*
4 *Philips Corp. v. Synergy Dynamics Int'l, LLC et al.*, No. CV-S-05-0577-PMP (GWF) (D. Nev.
5 Nov. 30, 2005), ECF Nos. 56, 60.

6 To assist the Clerk with effecting service on three of the Individual Defendants in
7 Kazakhstan, Plaintiffs are prepared to promptly furnish the Clerk's office with the following:

8 (i) a copy of this Court's Order directing the Clerk to effect service of the Complaint and each
9 respective Summons on Madina Abylkassymova, Olzhas Kizatov, and Arman Omarbekov;
10 (ii) one copy of the Complaint for each of the above-named Defendants; (iii) one copy of the
11 Summons issued by the Clerk for each of the above-named Defendants; (iv) Russian
12 translations of the Complaint and Summonses;² (iv) one international mail (i.e., DHL or FedEx)
13 envelope for each of the above-named Defendants; and (v) one pre-paid international shipment
14 waybill filled out and addressed to each of the above-named Defendants with signed return
15 receipt requested, Plaintiffs' counsel listed as the sender and return address, and Plaintiffs'
16 counsel's payer account number listed for payment for shipment of the return receipt. If
17 helpful, Plaintiffs will also schedule the packages to be picked up from the Clerk's office by
18 the international mail service.

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27 ² **Exhibits A-C** are compilations of the Complaint, Summons, and Russian translations thereof for
28 Defendants Abylkassymova, Kizatov, and Omarbekov, respectively. While Plaintiffs will provide
paper copies to the Clerk along with the associated envelopes and pre-paid international shipment
waybills, Plaintiffs attach these documents as Exhibits for the Court's review.

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IV. CONCLUSION

Based upon the foregoing, Plaintiffs respectfully request that the Court direct the Clerk of Court to effect service of the Complaint, respective Summons, and the Russian translations thereof, upon Defendants Madina Abylkassymova, Olzhas Kizatov, and Arman Omarbekov via tracked international mail service with signed return receipt requested, pursuant to FRCP 4(f)(2)(C)(ii).

DATED this 8th day of March 2023.

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